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James V. Costigan  
Hedman & Costigan, P.C.  
1185 Avenue of the Americas  
New York, NY 10036-2646

In re Application of :  
Piccol et al. :  
Serial No.: 09/647,970 : DECISION  
PCT No.: PCT/EP99/02432 :  
Int. Filing Date: 09 April 1999 :  
Priority Date: 10 April 1998 :  
Attorney's Docket No.: 515-4207 :  
For: CHIRAL PHOSPHORATED LIGANDS :  
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This decision is responsive to the "PETITION UNDER 37 CFR 1.3137(b)" filed 02 April 2001. No petition fee is due.

BACKGROUND

On 09 April 1999 applicants filed international application PCT/EP99/02432, which claimed priority of an earlier Italian application filed 10 April 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 November 1999 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 10 October 2000.

On 06 October 2000, applicants filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, a preliminary amendment, a copy of the international preliminary examination report, an information disclosure statement, and the basic national fee of \$860 as required by 35 U.S.C. 371(c). These papers were assigned application number 09/647,970.

On 02 November 2000, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration. The notification set a one-month time period in which to respond.

On 02 April 2001, applicant filed the current petition and a copy of the declaration.

On 11 April 2001, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903). The Date of Receipt of all 35 U.S.C. 371 Requirements was indicated as 02 April 2001.

### DISCUSSION

Applicants filed a petition to revive. However, applicant gave the United States Patent and Trademark Office the right to charge any outstanding fees to the deposit account. Because there was still time to respond, applicant was charged a four month extension of time fee. Accordingly, the application was never abandoned. Therefore, the current petition is moot.

If applicant wishes to assert that the four month extension of time should be refunded, applicant should provide evidence that shows that the declaration was filed 28 November 2000.

### CONCLUSION

The petition to revive the application is **DISMISSED as moot.**

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Debra Brittingham  
PCT Legal Office  
DSB/BM:dsb

Tel: (703) 305-3401  
Fax: (703) 308-6459



Boris Milef  
PCT Legal Examiner  
PCT Legal Office